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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,481	11/14/2005	Christopher Thomas Elsworthy	11136/228	3347

28455 7590 05/22/2008

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EXAMINER	
MULLER, BRYAN R	

ART UNIT	PAPER NUMBER
3723	

MAIL DATE	DELIVERY MODE
05/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/537,481	ELSWORTHY ET AL.	
	Examiner	Art Unit	
	BRYAN R. MULLER	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 February 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/6/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 2/6/2008 has being considered by the examiner. However, reference C5, listed as the Russian Search Report and English Translation under the NPL Documents has not been considered because the English language translation was not included for the listed corresponding application or the search report.

Claim Rejections - 35 USC § 102

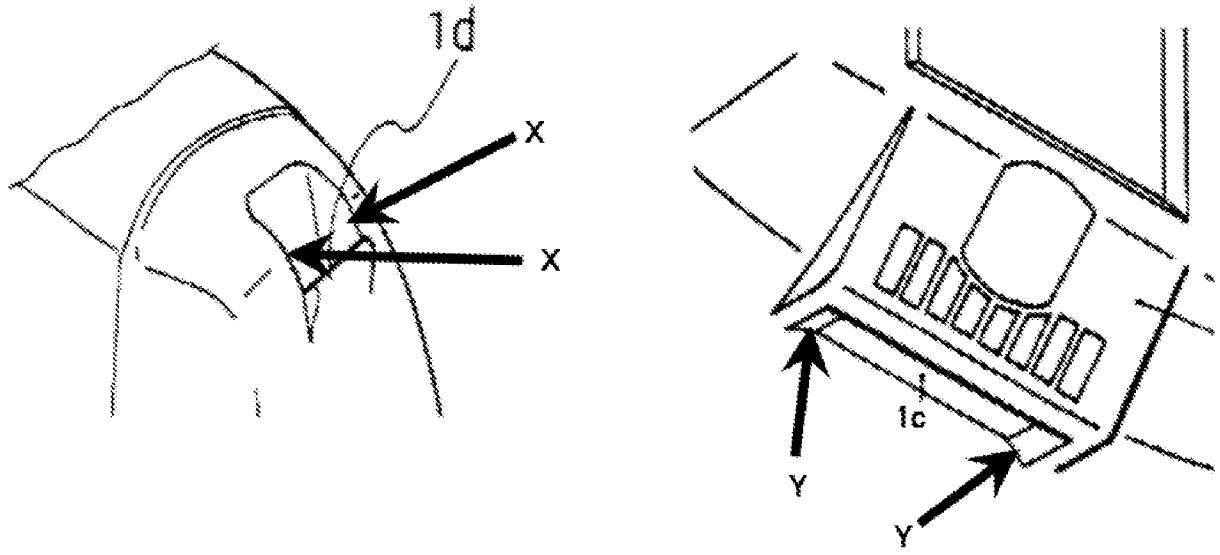
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimi et al. (6,058,559).

3. In reference to claim 1, Yoshimi discloses a suction cleaner of the cylinder type comprising a main unit (1) including a source of suction and a separator arrangement; a flexible hose (6) and a wand (2) with a cleaning head (5) attached thereto; wherein the main unit is configured to stand on an end (as seen in Fig. 1) further comprising a releasable catch formation (1c, 1d, 4d and 10) configured to connect the wand to the main unit, wherein, when connected to the main unit, part of the wand lies at least partially within a recess provided in the main unit (parts 4d and 10 are both considered to be part of the wand, and are both positioned within respective recesses, 1c and 1d,

which are part of the main body), the recess extending at least between distinct portions of the catch formation disposed upon the main unit (as seen below, each of the recesses 1c and 1d is positioned between side walls X and Y on the main unit that are considered to be distinct portions of the catch formation because the are necessary to form the recesses, which are parts of the catch formation).



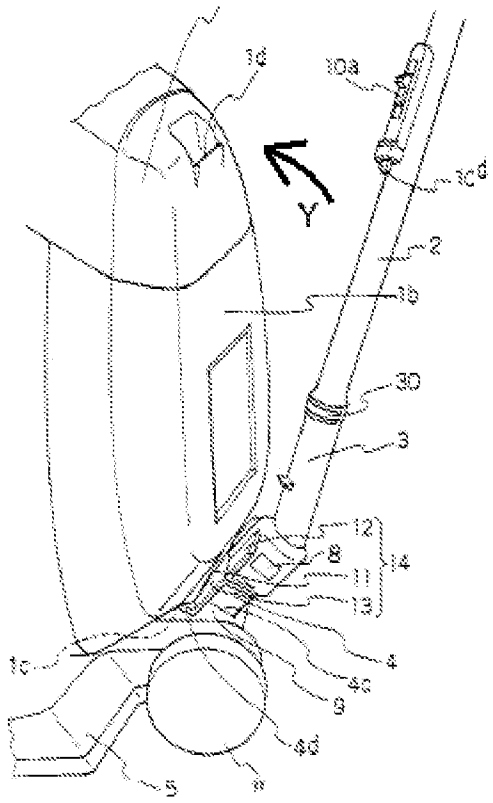
4. In reference to claim 2, the structure disclosed by Yoshimi, providing a support (4d) beneath the main unit, will inherently allow a user to lift the main unit by using the wand as a handle when the wand is connected to the main unit.

5. In reference to claim 3. Yoshimi further discloses that the recess is defined upon an underside of the main unit when the main unit is in a normal use orientation. Both of the recesses 1c and 1d are positioned on the underside of the main body when used in the orientation shown in Fig. 13, which is considered to be an orientation of normal use.

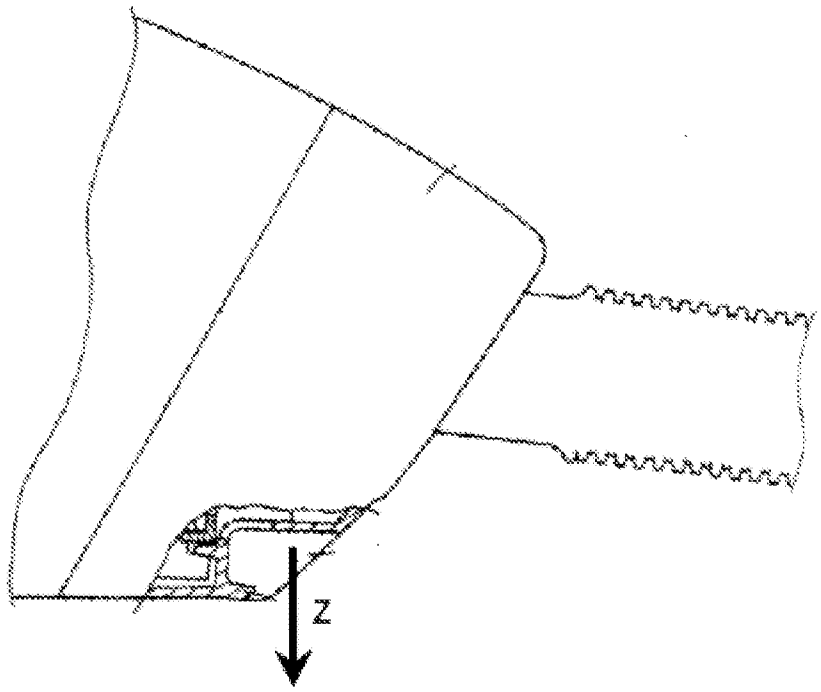
6. In reference to claim 4, Yoshimi further discloses that the catch means comprises first inter-engaging catch formations (1c and 4d) provided respectively on the

main unit and on the cleaning head (5) and second inter-engaging catch formations (1d and 10) provided respectively on the main unit and on the wand spaced from the cleaning head.

7. In reference to claim 5, Yoshimi further discloses that, to engage the first and second catch formations, a user would inherently have to place the main unit (1) onto the first catch structure (4d) on the cleaning head, which will be moving the wand upwardly relative to the main unit, and then pivot the wand relative to the main unit (in the direction of arrow Y below), which inherently includes a vector of movement upward relative to the main unit. Therefore, the second catch formations of Yoshimi are engagable by an upward movement of the wand relative to the main unit, with respect to the main unit when standing on the end (on top of cleaning head 5), both immediately prior to (during placement of main unit on formation 4d) and during engagement (rotational motion having vector of movement upward) of the formation (10) on the wand with formation (1d) on the main unit.



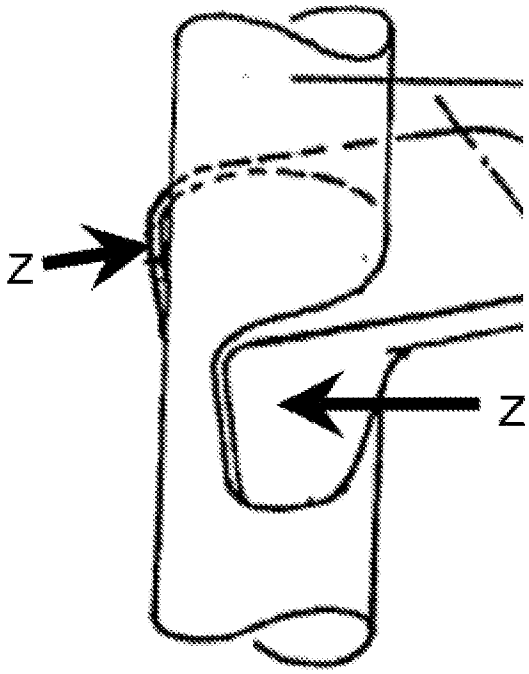
8. In reference to claim 6, the second catch formation (1d) on the main unit is a second recess that may be considered to be downwardly facing (as shown by arrow Z below) when the main unit is in the orientation to be used as a separate canister, wherein the lower surface 1b is positioned on or parallel to the ground (shown in Fig. 13), and the wand comprises a complementary projection (10) that is engagable with the second recess (1d).



9. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Busalt et al. (GB 2128075A).

10. In reference to claim 1, Busalt discloses a suction cleaner of the cylinder type comprising a main unit (1) including a source of suction and a separator arrangement; a flexible hose (2) and a wand (4) with a cleaning head (5) attached thereto; wherein the main unit is configured to stand on an end (as seen in Fig. 1) further comprising a releasable catch formation (shown in Figs. 2 and 3) configured to connect the wand to the main unit, wherein, when connected to the main unit, part of the wand lies at least partially within a recess provided in the main unit (a portion of the wand 4 is positioned within the recess within catch formation 8, which is part of the main body), the recess extending at least between distinct portions of the catch formation disposed upon the

main unit (as seen below, the recess formed by catch 8 is positioned between side walls Z on the main unit that are distinct portions of the catch formation).

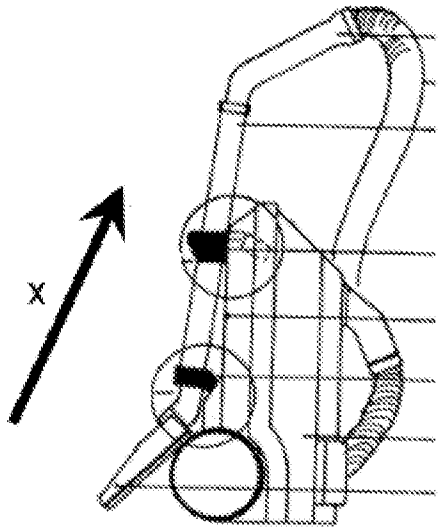


11. In reference to claim 3, Busalt further discloses that said recess is defined on the underside of the main unit when the main unit is in its normal use orientation.

12. In reference to claim 4, Busalt further discloses that the catch formation comprises first inter-engaging catch formations (7 and 11) provided respectively on the main unit and on the wand in the vicinity of the cleaning head and second inter-engaging catch formations (8 on the main body and the wand itself, or outer circumference thereof is considered to be the second catch formation on the wand) provided respectively on the main unit and on the wand spaced from the cleaning head.

13. In reference to claim 5, the second catch formations (8 and the outer circumference of the wand, which is spaced away from the cleaning head) are

inherently capable of being engagable by an upward movement of the wand relative to the main unit with respect to the main unit when standing on the end. In the orientation of the main body, shown in Fig. 1, the wand may be moved upwardly and toward the bottom of the main unit (in the general direction of arrow X, shown below) in order to engage the second catch formations.



Claim Rejections - 35 USC § 103

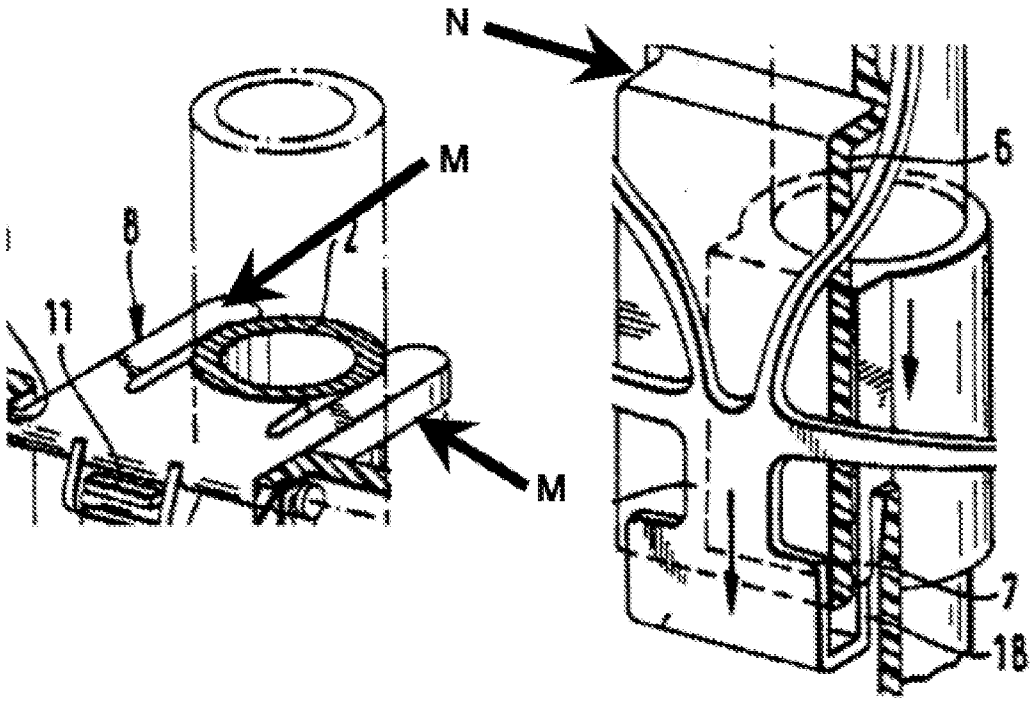
14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15. Claims 1, 3-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bach et al. (5,125,127).

16. In reference to claim 1, Bach discloses a suction cleaner of the cylinder type comprising a main unit (4) including a source of suction and a separator arrangement; a flexible hose (1) and a wand (2) with a cleaning head (3) attached thereto; wherein the main unit is configured to stand on an end (as seen in Fig. 1) further comprising a releasable catch formation (6-11) configured to connect the wand to the main unit, wherein, when connected to the main unit, part of the wand lies at least partially within a recess (two recesses are formed, a first in part 8 and the second formed by section 6) provided in the main unit (a portion of catch 7 that is considered to be part of the wand is positioned within the recess formed by portion 6, which is part of the main body and a portion of the wand 2 is positioned within the recess within catch formation 8, which is also part of the main body), the recess extending at least between distinct portions of the catch formation disposed upon the main unit (as seen below, the recess formed part 8 is positioned between extending sides M that are considered to be distinct portions of the catch formation and the recess formed in section 6 is positioned between side walls N [only one shown below] on the main unit that are also considered to be distinct portions of the catch formation). However, Bach fails to specifically disclose that the main unit comprises a source of suction and a separator arrangement but the Examiner hereby takes official notice that it is old and well known in the art for vacuum cleaners to comprise a suction source and separator arrangement in the main body to provide the necessary functions of sucking up dirt or debris and separating the dirt or debris from the air. Therefore, it would have been obvious to provide the main unit of the Bach

vacuum cleaner with a source of suction and a separator arrangement for the vacuum cleaner to effectively function as a vacuum cleaner.



17. In reference to claim 3, Bach further discloses that said recess is defined on the underside of the main unit when the main unit is in its normal use orientation.

18. In reference to claim 4, Bach further discloses that the catch formation comprises first inter-engaging catch formations (6 and 7) provided respectively on the main unit and on the wand in the vicinity of the cleaning head and second inter-engaging catch formations (8 on the main body and the wand itself, or outer circumference thereof is considered to be the second catch formation on the wand) provided respectively on the main unit and on the wand spaced from the cleaning head.

19. In reference to claim 5, the second catch formations (8 and the outer circumference of the wand, which is spaced away from the cleaning head) are

inherently capable of being engagable by an upward movement of the wand relative to the main unit with respect to the main unit when standing on the end. In the orientation of the main body, shown in Fig. 1, the wand may be moved upwardly and toward the bottom of the main unit (in the same general direction of arrow X, shown above for the Busalt reference) in order to engage the second catch formations.

20. In reference to claim 7, Bach further discloses that the first catch formation on the main unit comprises an upwardly extending member (18) to engage a complementary formation (end of 7) on the wand, and a spring (10) configured to bias the wand so as to urge the respective second catch formations into engagement. The engagement of portions 7 with portion 18 causes the wand to bias the catch formation (8) on the second catch formation to extend from the main unit to allow the wand to engage the second catch formation. Thus, the spring biases the wand in a manner that causes the second catch formation to be accessible for engagement.

21. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Busalt et al. (GB 2128075A) in view of Barski (DE 3834686 C1).

22. Busalt discloses the suction cleaner, as discussed supra, having a second catch formation toward the top of the main unit (when in an upright orientation), but fails to disclose that the second catch formation is associated with a castor assembly. Barski discloses a similar vacuum cleaner having a catch formation (12, 13) toward the top of a main unit (when in an upright orientation), and teaches that the catch formation may be associated with a castor assembly (2) to allow the main unit to smoothly ad

easily move across the floor when being used as a separate canister unit. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the second catch formation on the main unit of Busalt with the castor/catch formation of Barski to allow the main unit to smoothly and easily roll across a surface while being used as a canister unit, separated from the wand and cleaning head.

Allowable Subject Matter

23. The indication of claim 7 as including allowable subject matter has hereby been withdrawn.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dyson (4,571,772), Kim (6,374,453) and Barker et al. (2005/0028317) all disclose vacuum cleaners having similar structure and function as the applicant's claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN R. MULLER whose telephone number is (571)272-4489. The examiner can normally be reached on Monday thru Thursday and second Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bryan R Muller/
Examiner, Art Unit 3723
5/16/2008